

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	MM Docket No. 10-157
)	
EDDIE FLOYD)	NAL/Acct. No. 201041410018
)	
Licensee of FM Translator Station K273AF, Carson City, Nevada)	FRN: 0011733425
)	Facility ID No. 13529
EDDIE FLYOD)	
)	
and)	
)	
WILKS LICENSE COMPANY-RENO, LLC)	
)	
For Assignment of License of FM Translator Station K273AF, Carson City, NV)	
)	
EDDIE FLOYD)	
)	
For Modification of License of FM Translator Station K273AF, Carson City, NV)	
)	

To: Office of the Secretary
Attn: Chief Administrative Law Judge
Richard L. Sippel

OCT 28 2010

Federal Communications Commission
Office of the Secretary

File No. BALFT-20070904ACU

File No. BMLFT-20071218ABH

SUPPLEMENT

Eddie Floyd, by his attorney, submits his Supplement to the October 22, 2010 Request for Deferral of Dates. The instant Supplement is submitted as a result of the Enforcement Bureau's October 27, 2010 Opposition (Attachment A). In support, Floyd submits the following¹:

The Bureau claims that Floyd provided no evidence to support the factual predicate for

¹ Floyd requests leave to submit the instant Supplement in order to address matters raised in the Bureau's Opposition and to assist the Judge in reaching his determination. The information contained herein addresses concerns raised by the Bureau.

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his request for deferral of dates.² Specifically, the Bureau claims that Floyd did not provide any “evidence in support of his bankruptcy petition...” The Bureau is technically correct but it is being intellectually dishonest. In this regard, Wilks License Company-Reno, LLC, on October 22, 2010, filed a Statement in Support (Attachment B). There, it provided the Bankruptcy Petition Number of the bankruptcy filing.³ The Bureau was served with a copy of the Wilks submission. That submission was filed on October 22, 2010. The Certificate of Service attached to that pleading reflects that the Bureau was served by hand delivery and e-mail. In fact, the Bureau references the Wilks’ pleading in its Opposition. See footnotes of the Bureau’s Opposition.

Floyd is also perplexed by the Bureau’s statement, “there is no indication that he even qualifies for bankruptcy.” See Bureau Opposition at Paragraph 3. It is submitted that the qualifications of Floyd to avail himself of relief pursuant to bankruptcy are solely the purview of the bankruptcy court. It is unlikely that the Bureau has any knowledge or information which would demonstrate that Mr. Floyd is not eligible for bankruptcy relief.

Floyd has identified a buyer for the station, the Evans Broadcasting Company, Inc., an existing Commission licensee. The sale price has been agreed upon. The contract is in the process of being drafted. It is anticipated that the Petition for Extraordinary Relief will be on file within the next fifteen (15) days.

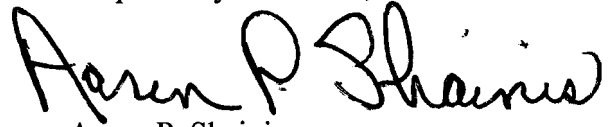
In view of the foregoing, it is submitted that the submission of Floyd’s responses to discovery would be an unnecessary waste of the limited money and resources available to Mr. Floyd, a petitioner in bankruptcy. Furthermore, the responses would also be of no value to the Bureau since once the sale is approved pursuant to *Second Thursday Corp.*, 19 RR 2d 1199, 25

² The Bureau makes the incredible assertion at paragraph 2 of its Opposition that “Floyd’s Request is itself extraordinary in its brevity.” Floyd was not aware that pleadings were judged on their length.

³ Petition No. 09-52653-gwz.

FCC 2d 1112 (1970), the hearing would be terminated.⁴ The Bureau's anxiousness to proceed with discovery under these circumstances is odd and perplexing.

Respectfully submitted,

A handwritten signature in black ink that reads "Aaron P. Shainis". The signature is written in a cursive, flowing style.

Aaron P. Shainis
Counsel for
Eddie Floyd

Shainis & Peltzman, Chartered
1850 M Street NW, Suite 240
Washington, DC 20036
202-293-0011

October 28, 2010

⁴ The termination of the hearing is just that **TERMINATION**. Accordingly, the participation of all parties would be extinguished.

ATTACHMENT A

Before the
Federal Communications Commission
Washington, D.C. 20554

FILED/ACCEPTED

OCT 27 2010

Federal Communications Commission
Office of the Secretary

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EDDIE FLOYD)	MB Docket No. 10-157
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Licensee of FM Translator Station K273AF,)	FRN: 0011733425
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EDDIE FLOYD)	
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WILKS LICENSE COMPANY-RENO)	
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For Assignment of License of FM Translator)	File No. BALFT-20070904ACU
Station K273AF, Carson City, Nevada)	
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For Modification of License of FM Translator)	File No. BMLFT-20071218ABH
Station K273AF, Carson City, Nevada)	

To: Chief Administrative Law Judge
Richard L. Sippel

ENFORCEMENT BUREAU'S
OPPOSITION TO REQUEST FOR DEFERRAL OF DATES

1. The Chief, Enforcement Bureau, by her attorneys and pursuant to Section 1.294 of the Commission's Rules,¹ hereby opposes the "Request for Deferral of Dates" filed on October 22, 2010, by Eddie Floyd ("Request"). As discussed below, Floyd presents no basis for immediately suspending all deadlines in this case.

¹ See 47 C.F.R. § 1.294.

2. Floyd requests the Presiding Judge to abruptly place this case on hold on the basis of a bare assertion that he intends to invoke extraordinary relief under the Commission's *Second Thursday* doctrine.² Floyd's Request is itself extraordinary in its brevity. In sole support, the pleading states, "Undersigned counsel has been advised that Floyd has currently filed for bankruptcy. Accordingly, Floyd intends to sell the station and all proceeds would be used to pay innocent creditors. Thus, it is submitted that there is no need to proceed with discovery."³

3. Floyd's one-paragraph pleading is utterly deficient and unpersuasive. Floyd claims (or, more precisely, his new attorney claims to have been advised) that he has filed for bankruptcy and intends to sell FM Translator Station K273AF. However, Floyd provides no evidence in support of his bankruptcy petition, there is no indication that he even qualifies for bankruptcy, he does not identify a buyer for his station, provides no timetable for finding a potential buyer, and offers absolutely no indication of when, if ever, he might be in a position to file a petition for extraordinary relief under *Second Thursday*. Stated otherwise, Floyd's instant request to suspend this hearing proceeding is predicated on nothing more than an unsupported pronouncement of an intention to do something at some unspecified time in the future. To request a stay of all procedural dates under such speculative circumstances is patently inconsistent with the public interest.⁴

4. While there may come a time under appropriate, well documented circumstances to stay procedural dates in this case, that moment clearly has not arrived. Until then, this

² *Second Thursday Corp.*, 19 RR 2d 1199, 25 FCC 2d 1112 (1970) ("*Second Thursday*").

³ Request at 1.

⁴ On October 22, 2010, Floyd also filed a "Request for a Pre-Hearing Conference" for the sole reason "to discuss the sale of Station K273AF . . . pursuant to the doctrine enumerated in *Second Thursday*" The Bureau does not oppose, in principle, such a conference, but respectfully suggests that, absent a comprehensive showing by Floyd of a legitimate plan for effectuating his stated intentions, a conference for the purposes described would be premature at this time.

proceeding should move forward unfettered, with Floyd and Wilks License Company-Reno LLC ("Wilks") expeditiously serving on the Bureau their respective Answers to the Bureau's Request for Admissions of Facts and Genuineness of Documents ("Request for Admissions"),⁵ and the parties commencing discovery on schedule.⁶

5. Accordingly, the Bureau respectfully asks the Presiding Judge to deny Floyd's open-ended request for an indefinite deferral of all dates in this proceeding. Furthermore, the Bureau respectfully requests the Presiding Judge to direct Floyd and Wilks to expeditiously serve on the Bureau their respective Answers to the Bureau's Request for Admissions.

Respectfully submitted,
P. Michele Ellison
Chief, Enforcement Bureau



Dana E. Leavitt
Special Counsel



Anita J. Patankar-Stoll
Attorney

Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, D.C. 20554
(202) 418-1420

October 27, 2010

⁵ Both Floyd and Wilks were required to serve their respective Answers on the Bureau by October 22, 2010, the same day that Floyd filed his instant Request seeking deferral of all procedural dates. In a pleading supporting suspension of all procedural dates (*see* "Statement in Support" filed on October 22, 2010, by Wilks), Wilks represents that its Answers to the Bureau's Request for Admissions are complete and, but for Floyd's Request to defer dates, would have been served in a timely manner. The Bureau expects that Floyd also would be in a position to serve his Answers promptly.

⁶ Pursuant to *Order FCC 10M-09*, released September 29, 2010, discovery is scheduled to begin November 1, 2010.

CERTIFICATE OF SERVICE

Ernestine Creech, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 27th day of October, 2010, sent by first class United States mail, or delivered by hand, copies of the foregoing "Enforcement Bureau Opposition to Request for Deferral of Dates" to:

Walter Edward Floyd, aka Eddie Floyd*
665 South Wells Avenue
Reno, Nevada 89502

Aaron Shainis*
Shainis & Peltzman, Chartered
1850 M Street, N.W.
Suite 240
Washington, D.C. 20036

Clifford M. Harrington*
Richard Zaragoza
Paul Cicelski
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington D.C. 20037

Chief Administrative Law Judge Richard L. Sippel (by hand)*
Federal Communications Commission
445 12th Street, S.W., Room 1-C768
Washington, D.C. 20054


Ernestine Creech

* Courtesy copy filed via electronic mail

ATTACHMENT B

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

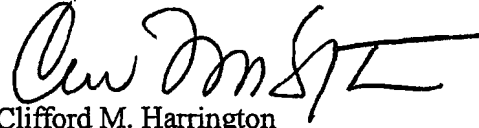
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Licensee of FM Translator Station K273AF, Carson, City, Nevada)	FRN: 0011733425
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For Modification of License of FM Translator Station K273AF, Carson City, NV)	
)	
To: Chief Administrative Law Judge Richard L. Sippel		

STATEMENT IN SUPPORT

Wilks License Company-Reno LLC ("Wilks-Reno"), by its attorneys, hereby submits this Statement in Support of the "Request for Deferral of Dates" and "Request for Pre-Hearing Conference" filed today on behalf of Eddie Floyd. Given the unique circumstances of this case, and the fact that Mr. Floyd to date has not previously been represented by counsel in this proceeding, Wilks submits that the proceeding, including the filing of Requests for Admission, Interrogatories, Depositions, and Status Reporting should be held in abeyance until such time as a second Prehearing Conference can be scheduled, consistent with the Request for Pre-Hearing

Conference filed today on behalf of Mr. Floyd. Such a result would be just, equitable and serve the public interest.¹ Wilks-Reno therefore supports grant of the Requests.²

Respectfully submitted,



Clifford M. Harrington

Paul A. Cicelski

Counsel for Wilks License Company-Reno LLC

Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037
(202) 663-8000

Dated: October 22, 2010

¹ Wilks-Reno will review Mr. Floyd's *Second Thursday Corp.* argument at such time as it is presented. Wilks-Reno has been able to confirm that Mr. Floyd and Mrs. Shari L. Floyd are the subject of an active involuntary Chapter 7 bankruptcy proceeding in the U.S. Bankruptcy Court, District of Nevada (Reno), Bankruptcy Petition No. 09-52653-gwz.

² The Enforcement Bureau served a Request for Admissions on Wilks-Reno. The response is due today, October 22, 2010. Wilks-Reno has completed its Response and was prepared to submit that Response with the Enforcement Bureau by close of business today. In view of the Request for Deferral of Dates and other pleadings submitted earlier today on behalf of Mr. Floyd, however, Wilks-Reno is deferring the submission of that Response pending action on those pleadings or other order of the Presiding Judge.

CERTIFICATE OF SERVICE

I, Cherie Mills, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that copies of the foregoing "STATEMENT IN SUPPORT" were served on this 22nd day of October, 2010, to the following:

P. Michele Ellison, Chief*
Enforcement Bureau
Federal Communications Commission
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Anita J. Patankar-Stoll*
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Aaron Shainis**
Shainis & Peltzman, Chartered
1850 M Street
Suite 240
Washington, DC 20036



Cherie L. Mills

*Via hand delivery and email

**Via U.S. mail and email

CERTIFICATE OF SERVICE

I, Jason N. Silverman, do hereby certify that copies of the foregoing "REPLY" were sent via First Class U.S. Mail, postage prepaid, this 28th day of October, 2010 to the following:

Dana E. Leavitt, Esq.
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Washington, DC 20554

Anita J. Patankar-Stoll, Esq.
Attorney
Enforcement Bureau
Federal Communications Commission
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Washington, DC 20554

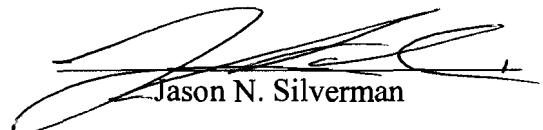
The Honorable Richard L. Sippel*†
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street SW, Room 1-C768
Washington, DC 20554

Clifford M. Harrington, Esq.*
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Mary Gosse*
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Washington, DC 20554

* - Via e-mail

† - Via hand delivery



Jason N. Silverman